

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

PACE LOCAL UNION 5-1967,

Plaintiffs

v.

C-1-01-301

INTERNATIONAL PAPER COMPANY,

Defendant

**ORDER**

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 52), defendant's objections (doc. no. 57), plaintiff's Request Not to File Electronically (doc. no. 58), plaintiff's objections (doc. no. 59), plaintiff's response (doc. no. 62) and defendant's response (doc. no. 63). The Magistrate Judge concluded that defendant is entitled to judgment as a matter of law on plaintiffs' claims of breach of contract under the LMRA and breach of fiduciary duty under ERISA. The Magistrate Judge also concluded that ERISA applies to the EBA but that plaintiffs may not invoke the doctrine of equitable estoppel because the terms of EBA are clear and unambiguous. The Magistrate Judge therefore recommended that defendant's Motion for Summary Judgment should be granted and this case terminated on the docket of this Court.

Plaintiff's Request Not to File Electronically (doc. no. 58) is **GRANTED** and plaintiff's objections (doc. no. 59) are deemed filed.

The parties object to the Judge's Report and Recommendation on the grounds that her findings are contrary to law.

Upon a *de novo* review of the record, especially in light of the parties' objections, the Court finds that the objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby **ADOPTS AND INCORPORATES HEREIN BY REFERENCE** the Report and Recommendation of the United States Magistrate Judge (doc. no. 52). Defendant's Motion for Summary Judgment (doc. no. 44) is **GRANTED**. Plaintiffs' Third Amended Complaint is **DISMISSED WITH PREJUDICE** at plaintiffs' cost.

This matter is **TERMINATED** on the docket of this Court.

**IT IS SO ORDERED.**

s/Herman J. Weber  
Herman J. Weber, Senior Judge  
United States District Court